

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
TRUSTEES OF THE LOCAL 7 TILE INDUSTRY
WELFARE FUND, TRUSTEES OF THE
LOCAL 7 TILE INDUSTRY ANNUITY FUND,
TRUSTEES OF THE TILE LAYERS LOCAL
UNION 52 PENSION FUND, TRUSTEES OF THE
BRICKLAYERS & TROWEL TRADES
INTERNATIONAL PENSION FUND, AND
TRUSTEES OF THE INTERNATIONAL MASONRY
INSTITUTE,

Plaintiffs,

- against -

ORDER ADOPTING
REPORT AND RECOMMENDATION
18-CV-3042 (RRM) (RER)

GIBRALTAR CONTRACTING, INC.,

Defendant.

-----X
ROSLYNN R. MAUSKOPF, United States District Judge.

Trustees of the Local 7 Tile Industry Welfare Fund, Trustees of the Local 7 Tile Industry Annuity Fund, Trustees of the Tile Layers Local Union 52 Pension Fund, Trustees of the Bricklayers & Trowel Trades International Pension Fund, and Trustees of the International Masonry Institute (collectively, "Plaintiffs") bring this action pursuant to Sections 502(g)(2) and 505 of the Employee Retirement Income Security Act of 1974 ("ERISA"), as amended, 29 U.S.C. §§ 1132(g)(2), 1145, and Section 301 of the Labor Management Relations Act of 1947 ("LMRA")¹ §§ 185. Plaintiffs allege that Gibraltar Contracting, Inc. has violated ERISA by failing to make required contributions pursuant the terms of a collective bargaining agreement. Plaintiffs have moved for default judgment (Doc. No. 10), and this Court referred the motion to the Honorable Ramon E. Reyes, Jr. (see Order dated 10/4/2018).

In a Report and Recommendation (“R&R”) dated December 20, 2018 (Doc. No. 15), Judge Reyes recommends that default judgment enter against Gibraltar in the amount of \$513,874.88, plus pre- and post-judgment interest to be calculated according to the date on which judgment is entered. Judge Reyes reminded the parties that, pursuant to Rule 72(b), any objection to the R&R must be filed within 14 days of receipt of the R&R. Pursuant to an affidavit of service, the R&R was mailed to Gibraltar on December 20, 2018. (See Doc. No. 16.) No party has filed any objection, and the time for doing so has passed.

When deciding whether to adopt a report and recommendation, a district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). “To accept the report and recommendation of a magistrate, to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record.” *Jarvis v. N. Am. Globex Fund, L.P.*, 823 F. Supp. 2d 161, 163 (E.D.N.Y.2011) (internal quotation marks and citation omitted).

The Court has reviewed the record and, finding no clear error, adopts the R & R as the opinion of the Court. Accordingly, the Court grants plaintiffs’ motion for default judgment, and directs the Court to enter Judgment in favor of plaintiffs and as against defendant Gibraltar in the amount of \$513,874.88 representing the delinquent contributions, liquidated damages, attorneys’ fees, and costs as set forth in Judge Reyes’ R&R), plus pre- and post-judgment interest to be calculated as set forth in Judge Reyes’ R&R and according to the date of judgment.

The Clerk of Court is directed to send a copy of this Order and the accompanying Judgment to defendant via overnight mail at the following address, and note the mailing on the docket:

Gibraltar Contracting Inc.
245 East 137th Street
Bronx, new York 10451

Upon entry of Judgment, the Clerk of Court is directed to close this case.

SO ORDERED.

Dated: Brooklyn, New York
September 26, 2019

Roslynn R. Mauskopf

ROSLYNN R. MAUSKOPF
United States District Judge